

PATENT
Docket No. 52951US002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant(s): David M. READ) Group Art Unit: 1744
Serial No.: 09/453,726) Examiner: Monzer R. Chorbaji
Confirmation No.: 2987)
Filed: 2 December 1999)
For: HYDROGEN PEROXIDE INDICATOR AND METHOD

APPLICANTS RECORD OF THE SUBSTANCE OF INTERVIEW
UNDER 37 C.F.R. § 1.133(b)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

A telephone interview was conducted on December 10, 2003, between Examiner Monzer R. Chorbaji, Examiner Robert J. Warden, Ann M. Mueeting, David M. Read, Mary Hurlocker, and Kathleen L. Franklin. Following the interview on December 10, 2003, the Examiner faxed to Applicant's Representative Ann M. Mueeting a copy of an Interview Summary with respect to the telephone interview. Applicant's summary of this interview, which included comments regarding the Interview Summary faxed to Applicant's Representative, was included with the Amendment and Response filed December 18, 2003.

An Interview Summary was subsequently issued by the Examiner on January 6, 2004, which included the same comments as were faxed to Applicant's Representative on December 10, 2003. Applicant, therefore, provides the following comments in response to Examiner's Interview Summary mailed January 6, 2004.

A review of the Interview Summary Record, dated January 6, 2004, makes it clear that Applicant's Representative and Applicant did not succeed, either during the interview or with the comments to the Interview Summary provided in the Amendment and Response filed December 18, 2003, in helping the Examiner understand the invention. Applicant herein points

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out the following corrections and clarifications to the Interview Summary Record prepared by the Examiner.

The Examiner states that "[w]ith respect to independent claims 1, 10, and 23; applicant explained that the hydrogen peroxide in Davies et al is not reacting instead it is inactivated by a change of the pH, whereas in the invention hydrogen peroxide actually reacts with the dye composition." This statement is not accurate. What was discussed, using phenolphthalein as an example of a pH indicator, is that in Davies et al. the hydrogen peroxide is not reacting with the pH indicator, but the pH indicator is changing color as a consequence of the inactivation of the hydrogen peroxide, which causes a change in the pH. Davies et al. disclose a pH indicator that detects a change in pH caused by the inactivation of the hydrogen peroxide, and indicates the pH change by a change in color. It is not accurate to state that the hydrogen peroxide in Davies et al. is inactivated by the change in pH. This discussion concerned the disclosure of phenolphthalein specifically, and pH indicators generally, not necessarily any other indicators in Davies et al. that are not acting as pH indicators.

Following this, the Examiner states, "[a]lso, applicant indicated that Davies et al. indicator is in a liquid state whereas his invention is in a vapor state. However, independent claims 1, 10, and 23 do not recite such limitations." First, Applicant points out that the indicator of Davies et al. is not in the liquid state; rather it is included in a solution which includes the indicator, a disinfecting agent, and an inactivating agent. Furthermore, it is not clear what "his invention is in the vapor state" means. If the Examiner is referring to the indicator of the Applicant's invention, this is not true. If the Examiner is referring to the sterilant used with the indicator of Applicant's invention, this is true. In a method of the present invention, it is the hydrogen peroxide sterilant that is in the vapor state¹. Applicant points out that claims 1, 10, and 23 recite, "[a] hydrogen peroxide sterilization indicator comprising a substrate and an indicator composition disposed thereon . . ." (emphasis added). It is not clear to Applicant how this could

¹. So as to prevent further confusion of the issue, the method claim recites exposing an article to be sterilized and a hydrogen peroxide sterilization indicator to a sterilant vapor consisting essentially of hydrogen peroxide, although the sterilization indicator claims are not so limited. Applicant's Representative did ask, during the telephone interview, if it would be helpful to amend the sterilization indicator claims to recite a sterilant vapor; however, the Examiner did not clearly positively respond to the inquiry.

Applicants Record of the Substance of Interview Under 37 C.F.R. §1.133(b)

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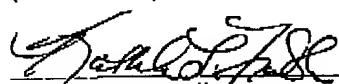
be interpreted as either a liquid state or a vapor state. Furthermore, it is not clear what "limitations" the Examiner referred to when stating that independent claims 1, 10, and 23 do not recite "such limitations."

Also, it is Applicant's understanding that if claim 11 were amended to remove "Crystal violet," claim 11 would be allowable, and if claims 1, 10, and 23 were amended to remove "Brilliant green," these claims would be allowable. Applicant agrees that it was stated that Applicant would consider these statements by the Examiner, but did not agree during the telephone interview to make such amendments.

The Examiner is invited to contact Applicant's Representatives at the below-listed telephone number, to hold a follow-up telephone interview or to provide any other assistance during prosecution of the present application.

CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper is being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 6th day of February, 2004, at 11:40 am (Central Time).

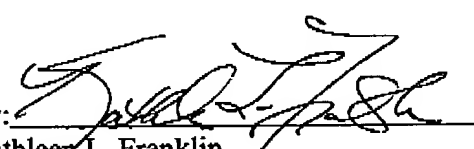

Kathleen L. Franklin

Respectfully submitted for

David M. Read

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6 FEB 2004
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